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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/755,207

01/05/2001

Tao Chen

010098

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23696 7590 03/13/2008  
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EXAMINER

NGUYEN, TU X

ART UNIT

PAPER NUMBER

2618

NOTIFICATION DATE

DELIVERY MODE

03/13/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

us-docketing@qualcomm.com  
kascanla@qualcomm.com  
nanm@qualcomm.com

<b>Office Action Summary</b>	<b>Application No.</b> 09/755,207	<b>Applicant(s)</b> CHEN ET AL.	
	<b>Examiner</b> TU X. NGUYEN	<b>Art Unit</b> 2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 January 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 1/5/01 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

Applicant's arguments, filed date 1/22/08, with respect to claims 1-9 have been considered but are not persuasive.

In response to Applicants argument, page 8, "Bonta states : In yet a further alternate embodiment, the mobile unit uses mechanisms other than a PSMM for informing the infrastructure of which rescue cells it is using for rescue, such as sent in step (632) and received in step (830)... In yet a further alternate embodiment, the mobile unit uses mechanisms other than a PSMM for informing the infrastructure of which rescue cells it is using for rescue, such as sent in step (632) and received in step (830) ". The Examiner does not rely on Bonta teaching alternate embodiment as pointed out by Applicants.

In response to Applicants argument "Here, Bonta indicates that the PSMM messages sent by the mobile unit may be sent at an arbitrary transmit power level up to the mobile unit's maximum transmit power. This simply means that the mobile may transmit PSMM messages at a desired transmit power level, but does not teach or suggest transmitting the rescue PSMM from the mobile terminal at a second transmit power level determined by the mobile terminal, wherein the second transmit power level is greater than the first transmit power level, as alleged by the Examiner". The Examiner disagrees, "rescue PSMM message at a maximum transmit power" is interpreted as a second transmit power level higher than normal PSMM.

In response to Applicants argument "Furthermore, elsewhere Bonta states that "[t]he rescue procedure is enhanced by initially attempting the transmission at maximum power an unacknowledged message from the mobile containing the current pilot channel signal strengths

measured from the strongest n cells (subsequently this message will be referred to as an emergency PSMM) (see col. 3, lines 11- 16). This passage suggests the opposite of that alleged by the Examiner, that the first (initial) PSMM transmission is at maximum power. Thus, each successive PSMM transmission would necessarily be at either the same (maximum) power or at a different (reduced) power, in complete contrast to the claimed invention. The Examiner disagrees, the rescue PSMM is the initial maximum power relative in emergency period (degrade quality signals) which is after by the normal period (good quality signals).

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-6 and 8-9, are rejected under 35 U.S.C. 102(e) as being provisional anticipated by Bonta et al. (US Patent 6,337,983).

Regarding claims 1 and 6, Bonta et al. discloses a method for call recovery wherein a mobile terminal's transmit power is not controlled by a base station during call recovery, comprising:

transmitting a pilot strength measurement message from a mobile terminal at a first transmit power level determined by the mobile terminal (col.11 lines 17-18, fig.4 steps 622, 627);

waiting a predetermined time period during which call recovery is not completed (see fig.3-4, steps 607, 611, 620, 629-31, col.11 lines 23-24); and

transmitting the pilot strength measurement message at a second transmit power level determined by the mobile terminal, wherein the second transmit power level is greater than the first transmit power level (see fig.4, step 632, col.13 lines 44-46).

Regarding claim 4, Bonta et al. disclose a method comprising:

Initiating a call recovery from a mobile terminal wherein the mobile terminal's transmit power is not controlled by a base station during call recovery (see fig.3, steps 601-607); and

Transmitting a pilot strength measurement message from the mobile terminal at a first transmit power level determined by the mobile terminal, which first transmit power level is less than a maximum transmit power level (see fig.4, steps 622, 627); and

Incrementing a transmit power level from a mobile terminal prior to receiving a hand-off direction message (see fig.4, step 632, col.11 lines 50-59).

Regarding claim 2, Bonta et al. discloses the second transmit power level is a maximum transmit power level (see col.7 lines 35-36).

Regarding claim 3, Bonta et al. disclose a computer program stored on a computer readable medium (see col.1, a computer program is inherent in a computer readable medium such as mobile device and base station).

Regarding claim 4, the modified Chheda et al. discloses everything as claim 1 above. More specifically, the modified Chheda et al. disclose incrementing a transmit power level prior to receiving a hand-off direction message (see Chheda et al. col.11 lines 3-22).

Regarding claim 5, Bonta et al. disclose transmitting a pilot strength measurement message at each transmit power level (see col.11 lines 12-40).

Regarding claim 6, Bonta et al. disclose the pilot strength measurement messages are transmitted at predetermined time intervals (see col.11 lines 36-40).

Regarding claim 8, Bonta et al. disclose every thing as claim 1, and further Bonta inherently disclose an antenna and a processor couple to the antenna of a mobile terminal as a computer readable medium in order to carry out the tasks described in claim 1.

Regarding claim 9, Bonta et al. disclose maintain the transmit power below a maximum power level (see 627, 628, fig.4).

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bonta et al. in view of Dalal (US Paten 6,633,554).

Regarding claim 7, Bonta et al. fail to disclose the pilot strength measurement message includes a preamble message.

Dalal disclose the pilot strength measurement message includes a preamble message (see col.7-20). Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Bonta et al. with the above teaching of Dalal in order to provide a preamble message to be transmitted over traffic channel).

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tu Nguyen whose telephone number is 571-272-7883.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban, can be reached at (571) 272-7899. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Tu X Nguyen/

Patent Examiner, Art Unit 2618

2/22/08

/Edward Urban/

Supervisory Patent Examiner, Art Unit 2618